

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: 2011-073

1. Requested Motion:

Meeting Date: 6/20/11

Approve Release of Lien relating to Code Enforcement Case No. CE 10-0277 for property located at 130 Eucalyptus Ct., Fort Myers Beach, FL.

Why the action is necessary: The Town recorded a Code Enforcement Lien with respect to code violations on property located at 130 Eucalyptus Ct, Fort Myers Beach, FL. The property owner, at the time the violations occurred and when the lien was recorded was Jay and Amanda Boweman. The property was sold on November, 30, 2010. It appears that prior to issuance of the final title insurance policy for the new owner, an updated lien search disclosed the Town's Code Enforcement Lien. A release of the Town's lien is required. The seller's attorney has requested to appear before Town Council seeking a reduction in the fine and a release of lien. The property is in compliance and the fine totals \$5,350.00.

What the action accomplishes: Authorizes the Mayor and Town Clerk to execute a Release of Lien.

2. Agenda:

☐ Consent
☒ Administrative

3. Requirement/Purpose:

☐ Resolution
☐ Ordinance
☒ Other

4. Submitter of Information:


☐ Council
☐ Town Staff
☒ Town Attorney

5. Background: The Town recorded a Code Enforcement Lien against Jay and Amanda Boweman as the result of a code violation for property located at 130 Eucalyptus Court, Fort Myers Beach, FL. The subject property has been brought into compliance, but there remains outstanding a fine in the amount of \$5,350.00. The Code Enforcement statute (Chapter 162, Florida Statutes) provides that only the governing body can compromise and release a code enforcement lien. The Seller's attorney is requesting a reduction in the fine and a Release of Lien for the property. A copy of the Code Enforcement Lien is attached.

6. Alternative Action:

7. Management Recommendations:

8. Recommended Approval:

Town Manager	Town Attorney	Finance Director	Public Works Director	Community Development Director	Cultural Resources Director	Town Clerk
						

9. Council Action:

☐ Approved ☐ Denied ☐ Deferred ☐ Other

MEMORANDUM



Town of Fort Myers Beach

TO: Mayor and Town Council Members

FROM: Terry Stewart, Town Manager

DATE: June 10, 2011

RE: RELEASE OF LIEN REQUEST CASE #CE 10-0277, 130 Eucalyptus Court

Active Lien amount: \$5,350 Town Hard Costs: -0- Hearing Cost \$280

For the Council Meeting of June 20, 2011 the Council will be asked to consider a request for mitigation of or total forgiveness of an active lien against the above named property. The purpose of this memorandum is to provide you with a recommendation from staff to assist you in your final decision on this matter. The Agenda Blue Sheet and accompanying documents provides some detail that is helpful so I will not repeat all of that information in this memo.

The general policy of staff will be that no lien mitigation request will be placed on the agenda unless the code violation causing the lien(s) has been corrected. Staff has confirmed that the violation(s) in this case no longer exist. It is important to note that the Town has hard cost for mowing and cleanup of the property.

The property owner has claimed the property was brought into compliance many months ago but they failed to notify the Town of that. Without that notification of compliance and Code Enforcement's subsequent validation, the daily fine amount will continue to accumulate. Staff has informed the property owner that if they can provided documented proof the property was previously brought into compliance, then we could take that into consideration in a mitigation recommendation to Council. The property owner claims to have such documentation but as of the date this memo was prepared, such documentation has not been submitted for our review. Should such information become available prior to the Council meeting, we will make it available for your consideration.

My recommendation for mitigation in this case is that you approve a Release of Lien upon payment to the Town in an amount not less than \$2,100. This includes \$280 in Code Hearing cost and a reduction of approximately sixty six percent (66%) in the active lien amount. I strongly urge the Council not to approve a total forgiveness of this lien.

PARCEL #: 29-46-24-W1-0020A.0200

THIS SPACE FOR RECORDING

BEFORE THE SPECIAL MAGISTRATE OF
FOR
THE TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA :

Petitioner,

CASE NO.: 10-0277

vs.

JACK A. BOWEMAN, III, and AMANDA
E. BOWEMAN,

Respondent.

CODE ENFORCEMENT ORDER

THIS CASE was first heard by the undersigned Lee County Hearing Examiner at a public hearing on OCTOBER 20, 2010, after which an Order was entered which found that a violation existed on the subject property and required the Respondent, JACK A. BOWEMAN, III, and AMANDA E. BOWEMAN, as the responsible person or entity to complete certain actions that would abate the violation by a date certain or face the imposition of a specified fine.

On DECEMBER 22, 2010, written competent and convincing evidence was provided that the violation had not been abated in accord with the above Order, and the Special Magistrate therefore finds and decides:

1. That the above-noted Order has not been complied with; and
2. That the violation of the Town of Fort Myers Beach Land Development Code (LDC) Sections 6-9 still exists on the subject property.

IT IS ORDERED that Respondent pay to the Town of Fort Myers Beach a fine of \$25.00 per day, beginning on OCTOBER 29, 2010 and continuing for each and every day that the aforesaid violation exists and continues on the property locate, as reported by the Petitioner at 130 EUCALYPTUS CT., Fort Myers Beach, FL 33931.

Upon recording in the Public Records, this Order shall constitute a lien for the fine amount against all real and personal property of Respondent, including, but not limited to, the

above-referenced property and subsequent foreclosure of such lien may result in the loss of such property. The prosecution costs awarded herein may also become a lien against Respondent, upon recording, pursuant to Chapter 162, Florida Statutes.

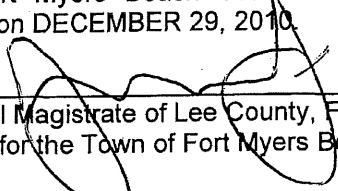
RESPONDENT MUST CONTACT TOWN OF Fort Myers BEACH CODE ENFORCEMENT AT 239-765-0202 TO REQUEST A REINSPECTION FOR DETERMINATION OF COMPLIANCE. RESPONDENT IS ADVISED THAT NUMEROUS PHONE CALLS MAY BE NECESSARY TO ENSURE CONTACT WITH THE CODE ENFORCEMENT OFFICER.

Payment of administrative costs and fines: Checks should be made payable to "Town of Fort Myers Beach" and mailed to:

Town of Fort Myers Beach
Attention: Code Enforcement
2523 Estero Boulevard
Fort Myers Beach, FL 33931

Please include a case number on the check.

DONE AND ORDERED at Town of Fort Myers Beach Town Hall, 2523 Estero Boulevard, Fort Myers Beach, Lee County, Florida on DECEMBER 29, 2010.


Special Magistrate of Lee County, Florida
in and for the Town of Fort Myers Beach


REHEARING: If the property owner disagrees with the Special Magistrate's finding herein that the violation has not been properly abated, the property owner has twenty (20) days from the date of this Order to request a rehearing. The request must be made in writing to the Town of Fort Myers Beach Code Enforcement Office and will be scheduled, if possible, on the next regularly scheduled hearing. Evidence and testimony presented at the hearing will be limited to the facts and arguments necessary to prove the violation was abated in accordance with the requirements of the Order finding the first violation. Any Order resulting from the rehearing may be appealed to the Circuit Court as set out below.

APPEAL: An aggrieved party may appeal an Order of the Special Magistrate of the Town of Fort Myers Beach. The appeal must be limited to appellate review of the record created before the Special Magistrate and filed within thirty (30) days of the execution of the Order to be appealed.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been sent by interoffice mail or hand delivery to the Town of Fort Myers Beach and Attorney for the Town of Fort Myers Beach and by U.S. mail to:

Jack A. Boweman, III, and Amanda E. Boweman
19220 immokalee Rd.
Naples, FL 34123


Assistant to the Special Magistrate for the Town of
Fort Myers Beach, Florida

FOR RECORDING ONLY

I HEREBY CERTIFY that as agent of the Town of Fort Myers Beach Code Enforcement Division, the office to whose custody the original is entrusted, this is a true and correct copy of the document maintained on file in the Code Enforcement Records of the Town of Fort Myers Beach, Florida.

A handwritten signature in black ink, appearing to read 'Shane Hidle', is written over a horizontal line.

Shane Hidle
Code Enforcement Officer
Town of Fort Myers Beach